

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

JESSIE W. PEARSON,)
Plaintiff,)
v.) Civil Action No. 3:05-CV-418-T
DAVID MCNAIR, et al.,)
Defendants.)

DEFENDANTS' ANSWER TO PLAINTIFF'S COMPLAINT

COME NOW former Jail Administrator David McMichael, incorrectly designated as “David McNair” and Jason Cowart, incorrectly designated as “Officer Kyle”, Defendants in the above-styled cause, and answer the Plaintiff’s Complaint as follows:

Answer

The Defendants in this action deny each and every allegation made by the Plaintiff, Jessie W. Pearson, and demand strict proof thereof. The Defendants deny that they acted, or caused anyone to act, in such a manner so as to deprive the Plaintiff of his constitutional rights.

Affirmative Defenses

1. The Plaintiff’s Complaint, separately and severally, fails to state a claim upon which relief may be granted.
2. The Defendants in this action, in their individual capacities, are entitled to qualified immunity from the Plaintiff’s claims.
3. The Defendants in this matter, in their official capacities, are entitled to absolute immunity from the Plaintiff’s claims pursuant to the Eleventh Amendment to the United States Constitution.

4. The Plaintiff's claims are barred by the Prison Litigation Reform Act.
5. The Plaintiff's claims are barred as there is no *respondeat superior* theory of liability under 42 U.S.C. § 1983.

Respectfully submitted this the 22nd day of June, 2005.

s/Amanda Allred

GARY L. WILLFORD, JR. Bar Number: WIL198
AMANDA ALLRED Bar No. ALL079
Attorneys for Defendants
WEBB & ELEY, P.C.
7475 Halcyon Pointe Drive
P.O. Box 240909
Montgomery, Alabama 36124
Telephone: (334) 262-1850
Fax: (334) 262-1889
E-mail: aallred@webbeley.com

CERTIFICATE OF SERVICE

I hereby certify that on this the 22nd day of June, 2005, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and that I have mailed a true and correct copy of the foregoing by United States Mail, postage prepaid, to the following non-CM/ECF participant:

Jessie Pearson
Tallapoosa County Jail
316 Industrial Park Drive
Dadeville, AL 36853

s/Amanda Allred
OF COUNSEL